GP- 1635

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CONTINUED PROSECUTION APPLICATION (CPA)
REQUEST TRANSMITTAL
(Only for Continuation or Divisional applications under 37 CFR 1.53(d))

In re prior PATENT APPLICATION of
Inventor(s): ZEICHER

NOV 0 9 1999

Group Art Unit: 1635

Examiner: S. McGarry

Appln. No.	08	807,500
	Series Code	Serial No.

Filed: February 27, 1997

Atty. Dkt.	PM 236007	PZCOM01/USC
	Parent M#	Client Ref

Assistant Commissioner for Patents
Box CPA
Washington, DC 20231

Date: November 9, 1999

This is a request for a ☒ continuation or ☐ divisional application under 37 CFR 1.53(d), (continued prosecution application (CPA)) of the above prior application number, entitled

NUCLEOTIDE SEQUENCE FOR TREATING CANCER AND INFECTION

NOTES

FILING QUALIFICATIONS: The prior application identified above must be a nonprovisional application that is either: (1) complete as defined by 37 CFR 1.51(b), or (2) the national stage of an international application in compliance with 35 U.S.C. 371, i.e., having a filing date granted and is neither abandoned nor its proceedings terminated and its issue fee has not been paid (unless item 6A below is X'd).

C-I-P NOT PERMITTED: A continuation-in-part application cannot be filed as a CPA under 37 CFR 1.53(d), but must be filed under 37 CFR 1.53(b).

EXPRESS ABANDONMENT OF PRIOR APPLICATION: The filing of this CPA is a request to expressly abandon the prior application as of the filing date of the request for a CPA. 37 CFR 1.53(b) must be used to file a continuation, divisional, or continuation-in-part of an application that is not to be abandoned.

ACCESS TO PRIOR APPLICATION: The filing of this CPA will be construed to include a waiver of confidentiality by the applicant under 35 U.S.C. 122 to the extent that any member of the public who is entitled under the provisions of 37 CFR 1.14 to access to, copies of, or information concerning, the prior application may be given similar access to, copies of, or similar information concerning, the other application or applications in the file jacket.

35 U.S.C. 120 STATEMENT: In a CPA, no reference to the prior application is needed in the first sentence of the specification and none should be submitted. If a sentence referencing the prior application is submitted, it will not be entered. A request for a CPA is the specific reference required by 35 U.S.C. 120 and to every application assigned the application number identified in such request, 37 CFR 1.78(a).


1.	☐ Enter the unentered amendment previously filed on _____ under 37 CFR 1.116 in the prior nonprovisional application. (Include claim fees on page 2).
2.	☒ A preliminary amendment is enclosed. (See page 3 for additional claims fees).
3.	This application is filed by <u>fewer</u> than all the inventors named in the prior application, 37 CFR 1.53(d)(4). a. ☐ DELETE the following inventor(s) named in the prior nonprovisional application: 1. _____ 2. _____ 3. _____ 4. _____ b. ☐ The inventor(s) to be deleted are set forth on a separate sheet attached hereto.
4.	☐ A new power of attorney is enclosed.
5.	Information Disclosure Statement is enclosed: ☐ IDS Letter ☐ Citing Appln. ☐ Foreign Search Report/OA ☐ PTO-1449 ☐ Cited Documents

11/10/1999 SLUANG1 00000003 08807500

01 FC:231   380.00 OP
02 FC:203   27.00 OP
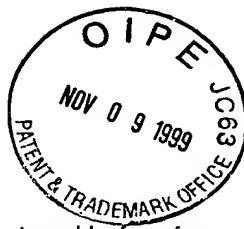
6. ☐ PRELIMINARY AMENDMENT to be entered before fee calculation (Do not make amendments here except cancellation of whole claims or multiple dependencies for purpose of reducing the filing fee (on page 2) per MPEP § § 506 and 607; do not cancel all claims.):

6A. ☐ The issue fee has been paid in the parent, but this CPA Request is based on a Rule 313(b)(5) petition and Rule 53(d)(1)(ii)(A).

7. ☐ Attached is a Rule 103(a) Petition to Suspend Action

FILING FEE
THE FOLLOWING FILING FEE IS BASED ON THE CLAIMS
EXISTING IN THE PRIOR APPLICATION AS AMENDED AT 1 & 6 ABOVE

		Large/Small Entity	Fee Code

8. Small Entity Statement Filed
   ☒ previously (still valid)   ☐ herewith

9. Basic filing fee -
   - ☒ Utility Appln. - - $760/$380 — $ 380 (131/231)
   - ☐ Design Appln. - - $310/$155 — $ 0 (132/232)
   - ☐ Plant Appln. - - $480/$240 — $ 0 (133/233)
   - ☐ Reissue Appln. - - $760/$380 — $ 0 (134/234)

10. (reserved)

11. Total Effective Claims __23__ minus 20 = * __3__ x $18/$9 = + __27__ (103/203)
12. Independent Claim __2__ minus 3 = * __0__ x $78/$39 = + __0__ (102/202)

*If answer is zero or less, enter "0"

13. If any proper (ignore improper) multiple dependent claim is present, ☐ add $260/$130 + 0 (104/204)

14. Original Due Date: __November 9, 1999__ ☐ None

15. **Petition is hereby made** to extend the original due date to cover the date this CPA is filed for which the requisite fee is attached
    - (1mo)- $110/$55= $_____ (115/215)
    - (2mos)- $380/$190= $_____ $ 0 (116/216)
    - (3mos)- $870/$435= $_____ (117/217)

16. Enter any previous extension fee paid since above original due date (item 14) and subtract - $ _____

17. **EXTENSION FEE ATTACHED** $ 0

18. **TOTAL FILING FEE =** $ 407

19. If "petition" box 7 above is X'd,- add petition fee ($130) + 0 (122)

20. **FEE ATTACHED =** $ 407
    (carry forward to line 27)

(FOR AMENDMENT FEES RE ITEM 2 ABOVE SEE NEXT PAGE)

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PATENT & TRADEMARK OFFICE

21. ☐ ATTACHED:

•22. **ADDITIONAL FEE CALCULATION FOR PRELIMINARY AMENDMENT
TO BE ENTERED (PER ITEM 2 ABOVE)**

	Claims remaining after amendment		Highest number previously paid for	Present Extra			Additional Fee	
				Large/Small Entity				Fee Code
23. Total Effective Claims	_____	minus**	20	= * 0	x $18/$9	= $	0	(103/203)
24. Independent Claims	_____	minus***	3	= * 0	x $78/$39	= +	0	(102/202)

25. If amendment enters proper multiple dependent claim(s) into this application for the <u>first time</u>, - ☐ add $260/$130 (per application)   + 0   (104/204)

26.   ADDITIONAL FEE $ 0

27.   <u>plus</u> **FEE** from item 20 on page 3   + 407

28.   **TOTAL FEE ATTACHED** $ 407

29.*If the entry in the first space is less than entry in the middle space, the "Present Extra" result is "0".

30.**If the "Highest number previously paid for" (see item 11 above) is less than 20, write "20" in this space.

31.***If the "Highest number previously paid for" (see item 12 above) is less than 3, write "3" in this space.

Our Deposit Account No. 03-3975
Our Order No.   70401 | 236007
                  C# | M#

32. <u>**CHARGE STATEMENT**</u>: The Commissioner is hereby authorized to charge any fee specifically authorized hereafter, or any missing or insufficient fee(s) filed, or asserted to be filed, or which should have been filed herewith or concerning any paper filed hereafter, and which may be required under Rules 16-18 (<u>missing or insufficient fee only</u>) now or hereafter relative to this application and the resulting Official document under Rule 20, or credit any overpayment, to our Account/Order Nos. shown above for which purpose a <u>duplicate</u> copy of this sheet is attached. **This CHARGE STATEMENT <u>does not authorize</u> charge of the <u>issue fee</u> until/unless an issue fee transmittal form is filed.**

**Pillsbury Madison & Sutro LLP
Intellectual Property Group**

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Atty/Sec: CGL/lmr

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Sig: _Blair Elizabeth Taylor_ P44370

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NOTE: No. 1: File this Request in <u>duplicate</u> with PTO receipt (PAT-103A) & attachments.
NOTE: No. 2: Is extension necessary for copendency? **DOUBLE CHECK** Item 14 above.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
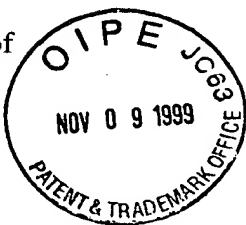
In re PATENT APPLICATION of

ZEICHER

Appln. No. 08/807,500

Filed: February 27, 1997

Title: NUCLEOTIDE SEQUENCE FOR TREATING
       CANCER AND INFECTION

Group Art Unit: 1635

Examiner: McGarry, S.

* * * * *

November 9, 1999

PRELIMINARY AMENDMENT

Hon. Commissioner of Patents
 and Trademarks
Washington, D.C. 20231

Sir:

Prior to examination of the above-identified application, kindly consider and enter the

following preliminary amendments and remarks.

IN THE CLAIMS:

Kindly cancel claims 2, and 17-20 without prejudice or disclaimer.

Kindly amend the claims as follows.

1. (Twice Amended) A nucleotide sequence comprising the nucleotide sequence of <u>an</u>

<u>oncoselective</u> [a virus belonging to the group of] autonomous <u>parvovirus</u> [parvoviruses], and

at least one effector nucleotide sequence [which encodes] <u>encoding</u> an effector polypeptide

which effects the destruction or normalization of cancer cells [or cells infected by virus,